

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii 96813

November 17, 2006

Board of Land
and Natural Resources
Honolulu, Hawaii

REQUEST FOR APPROVAL TO HOLD A PUBLIC HEARING TO AMEND HAWAII
ADMINISTRATIVE RULES, CHAPTER 13-51, KAHULUI HARBOR, MAUI FISHERIES
MANAGEMENT AREA

Submitted for your consideration and approval is a request to hold a public hearing to amend Hawaii Administrative Rules (HAR) to better manage fishing issues occurring at Kahului Harbor within the fisheries management area.

Fishing-related issues, including user conflicts, have been occurring in Kahului Harbor over the years. The Division of Aquatic Resources has attempted to identify and address these issues through several meetings with various fishing groups to discuss their concerns. The last public meeting was held on October 6, 2006, which provided the basic information for this proposed rule amendment.

RECOMMENDATION:

“That the Board approve the holding of a public hearing to amend Chapter 13-51, Kahului Harbor, Maui Fisheries Management Area.”

Respectfully submitted,



DAN POLHEMUS
Administrator

APPROVED FOR SUBMITTAL:



PETER T. YOUNG
Chairperson

Attachments: Chapter 13-51 (Ramseyer Draft 10/27/06)

ITEM F-3

Rules Amending Title 13
Hawaii Administrative Rules

(date)

1. Chapter 51 of Title 13, Hawaii Administrative Rules, entitled "KAHULUI HARBOR, MAUI" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART II MARINE FISHERIES MANAGEMENT AREAS

CHAPTER 51

KAHULUI HARBOR, MAUI

| | |
|------------|-----------------------------------|
| §13-51-1 | Definitions |
| §13-51-1.1 | Boundaries |
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| §13-51-4 | Penalty |
| §13-51-5 | Severability |

§13-51-1 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

"Akule" means any fish known as *Selar crumenophthalmus*, *Trachiurops crumenophthalmus*, or other recognized synonym.

"Area" means the Kahului Harbor fisheries management area.

"Board" means the board of land and natural resources.

"Crab net" means a type of fishing gear consisting of flat, netting material over a circular hoop frame, specifically designed to entangle or catch crabs as they crawl or swim onto the net lying flat on the bottom.

"Department" means the department of land and natural resources.

"Hand net" means a type of fishing gear defined in section 13-75-1.

"Kahului Harbor" means that harbor situated at Kahului, Wailuku, Maui, Hawaii.

"Landing net" means a type of fishing gear defined in section 13-75-1.

"Marine life" means as defined in section 13-75-1.

"Mullet" means any fish known as *Mugil cephalus* or a recognized synonym. Also known as pua, amaama, and anae.

"Nehu" means any fish known as *Encrasicholina purpurea*, *Stolephorus purpureus*, or a recognized synonym.

"Push net" means a type of fishing gear consisting of netting material in the shape of a flat, single panel, rectangle with straight handles attached to both sides of the net and designed to be used with both hands.

"Snag" means to hook or attempt to a fish by any portion of its body or fins posterior of the gill plates. Any fish with puncture wounds posterior of the gill plates shall be considered to have been snagged.

"Take" means as defined in section 13-75-1.

[Eff 3/8/84; am and comp] (Auth: HRS §188-53) (Imp: HRS §188-53)

§13-51-1.1 Boundaries. The Kahului Harbor fisheries management area shall include that portion of the submerged lands and overlying waters of Kahului Harbor beginning at the highwater mark at the shoreline and bounded by an imaginary straight line drawn between the seaward edges of the two breakwaters

forming the harbor entrance channel and further described in the map entitled "Kahului Harbor Fisheries Management Area 10/20/2006" attached at the end of this chapter and made a part thereof. [[Eff 3/8/84; am and comp] (Auth: HRS §188-53 (Imp: HRS §188-53)

§13-51-2 Prohibited activities. (a) [No person shall use any thrownet, or draw, drag, seine or any other type of net except crab net and hand net for shrimp, within those portions of Kahului Harbor:

- (1) Bounded by the shoreline between Kahului Harbor piers 1 and 2, and a seaward boundary delineated by a straight line drawn from the base of Kahului Harbor pier 2 across to the southernmost corner of the building on Kahului Harbor pier 1, designated as area 1;
- (2) Bounded by the shoreline along the southeastern portion of Kahului Harbor between the Puunene Avenue extension to and along Kahului Harbor pier 2, and a seaward boundary delineated by a straight line drawn from the northwesternmost corner of Kahului Harbor pier 2 to the shoreline at the Puunene Avenue extension, designated as area 2; and
- (3) Bounded by the shoreline along the southern portion of the Kahului Harbor park adjacent to the boat launching ramp and the shoreline along Kahului Beach Road, and a seaward boundary delineated by a straight line drawn following the northern portion of the eastern shoreline of the Kahului Harbor park to the shoreline along Kahului Beach Road, designated as area 3; as delineated on the "Map of Kahului Harbor, Maui, 01/13/84", located at the end of this chapter.

(b)] Except as provided in section 13-51-3, it is unlawful for any person, while within the area, to:

- (1) Use any net;

- (2) Snag any marine life;
 - (3) Take or possess a total bag limit of more than fifty marine life per person per day; and
 - (4) Use more than two poles, provided that each pole may have only one line, and each line may have no more than two hooks, while at or near the shoreline.
- (b) It is unlawful for any person to take any marine life from the area, or use any fishing gear while in the area, which is prohibited by law elsewhere in the state.
- (c) Nothing in this chapter shall be construed as allowing activities within any portion of Kahului Harbor, which may be otherwise prohibited by law or rules adopted by the department of transportation. [Eff 3/8/84; am and comp] (Auth: HRS §188-53)
(Imp: HRS §188-53)

§13-51-3 [Permitted] Allowed activities, permits. [Pond owners or operators, or commercial fishermen, with an appropriate license, may use nets within the protected areas to:

- (1) Take young mullet or pua (Mugil cephalus) for the purpose of stocking their pond; or
 - (2) Take nehu, iao or other baitfishes for which an open season has been declared for bait purposes only.]
- (a) Notwithstanding paragraph 13-51-2(a)(1), a person may use:
- (1) A bait net to take nehu and other baitfish with a valid nehu bait license issued pursuant to section 13-74-22;
 - (2) A net to take only akule with a valid commercial marine license issued pursuant to section 13-74-20;
 - (3) A hand net to take marine life while on the shore, provided that the hand net, including the handle, is not more than three feet in any dimension;
 - (4) A landing net to secure hooked marine life;

- (5) A push net or hand net to take shrimp, provided that the push net, excluding the handle, is not more than three feet in length, width, or height and the hand net, including the handle, is not more than three feet in any dimension;
 - (6) A crab net of not more than two feet in diameter to take crabs, provided that no person may use more than ten such crab nets at any time; and
 - (7) A net to take mullet less than three inches fork length and other marine life for the purpose of stocking a licensed aquaculture facility, subject to the provisions of a valid aquaculture license issued pursuant to section 13-74-43.
 - (b) Notwithstanding paragraph 13-51-2(a)(3), a person may possess more than the total bag limit:
 - (1) Of baitfish with a valid nehu bait license issued pursuant to section 13-74-22; and
 - (2) Of akule with a valid commercial marine license issued pursuant to section 13-74-20.
 - (c) The department may issue permits to engage in activities prohibited by section 13-51-2 for scientific, propagation, or other purposes, in accordance with section 187A-6, HRS, and as may be otherwise authorized by law, provided that:
 - (1) The department may impose terms and conditions it deems necessary to conserve and manage the marine life in the area;
 - (2) The board may revoke any permit and assess a fine or other penalty for any infraction of the terms and conditions of the permit; and
 - (3) A person whose permit was revoked shall not be eligible to apply for another permit until one year after the date of revocation.
 - (d) Unless prohibited in section 13-51-2, all other legal fishing gears may be used within the area.
- [Eff 3/8/84; am and comp] (Auth: HRS §188-53) (Imp: HRS §§188-44, 188-45, 188-53)

§13-51-3.1 Fisher check station requirements.

(a) All persons prior to entering the area to take marine life are required to sign in their names on a department form located at a designated fisher check station. It is unlawful for any person entering the area for the purpose of taking marine life from the area to enter without first signing in at the fisher check station.

(b) All persons who have signed in at the fisher check station must also sign out at the fisher check station before leaving the area. It is unlawful for any person who has signed in, to not sign out, before leaving the area.

(c) All persons signing out must also fill out a department supplied report form of their fishing activity during the fishing trip, including all marine life taken from the area. The fishing reports shall be confidential and used to monitor fishing activity in the area. It is unlawful for any person to fail to submit a legible fishing report before leaving the area, to submit an incomplete report, to falsify the report, to read another person's report, or to destroy or remove another person's fishing report from the fisher check station without department authorization.

(d) Persons who are members of a family or group fishing together may submit one report for the family or group. [Eff _____] (Auth: HRS §188-53)
(Imp: HRS §§188-44, 188-45, 188-53)

§13-51-4 Penalty. Any person violating the provisions of this chapter shall be punished as provided by [section] sections 187A-12.5, 188-70, Hawaii Revised Statutes, and as may be otherwise provided by law. [Eff 3/8/84; am and comp _____] (Auth: HRS §§187A-12.5, 188-53, 188-70) (Imp: HRS §§187A-12.5, 188-70)

§13-51-5 Severability. The provisions of this rule are declared to be severable, and if any portion, or the application thereof, to any person or

property is held invalid for any reason, the validity or application of the remainder of these rules to other persons or property shall not be affected."

[Eff _____] (Auth: HRS §188-53) (Imp: HRS §§188-44, 188-45, 188-53)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 13-51, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

PETER T. YOUNG, Chairperson
Board of Land and
Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General

Kahului Harbor Fishery Management Area (FMA): 10/20/2006

